

Introduced: 3/6/63
Referred: Judiciary,
Commerce and Local
Government

1 IN THE HOUSE

RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 159

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to create the Alaska Public Service
7 Commission; defining its authority and
8 duties; providing for penalties; and re-
9 pealing certain acts and parts of acts."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 42.05 is amended by adding new sections to
12 read:

13 Sec. 42.05.011. PUBLIC SERVICE COMMISSION CREATED.

14 There is created within the Department of Commerce the
15 Public Service Commission.

16 Sec. 42.05.021. COMPOSITION OF PUBLIC SERVICE COMMIS-
17 SION. The Public Service Commission consists of three mem-
18 bers, appointed by the governor and confirmed by the legis-
19 lature in joint session assembled.

20 Sec. 42.05.022. NAME AND SEAL. The commission shall
21 be known as "Alaska Public Service Commission" and in that
22 name may sue and be sued or otherwise proceed. The commis-
23 sion may have a seal with the words "Alaska Public Service
24 Commission" and other such design as it may prescribe en-
25 graved thereon, by which it shall authenticate its pro-
26 ceedings and of which the courts shall take judicial notice.

27 Sec. 42.05.031. TERM OF OFFICE. The term of office
28 of each member of the commission is six years. The members
29 of the commission serve staggered terms of six years. The

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1 chairman, directors, commissioners and other personnel
2 employed or appointed pursuant to the Alaska Public Service
3 Commission Act of 1959 shall continue in office pursuant
4 to this chapter.

5 Sec. 42.05.041. QUALIFICATIONS OF MEMBERS. Members
6 shall be qualified as follows: one member shall be a gradu-
7 ate of an accredited school of law; one member shall be a
8 graduate of an accredited university with a major in
9 engineering; one member shall be a graduate of an accredited
10 university with a major in finance, accounting, or business
11 administration.

12 Sec. 42.05.051. ACTUAL EXPERIENCE EQUIVALENT TO A
13 DEGREE. Actual experience for a period of five years in the
14 practice of law or in the field of engineering or in the
15 field of finance, business administration or accounting is
16 equivalent to graduation from an accredited university.

17 Sec. 42.05.061. RESTRICTIONS ON MEMBERS. No member
18 of the commission nor an employee or agent of the commission
19 shall have any official or professional relation to any
20 business or agency subject to regulation under this chapter,
21 or have stock or securities or a pecuniary interest in any
22 such business or agency. Membership in a cooperative asso-
23 ciation is not a "pecuniary interest" within the meaning
24 of this section.

25 Sec. 42.05.071. CHAIRMAN OF COMMISSION. The governor
26 shall designate one member of the commission to serve as
27 chairman.

28 Sec. 42.05.081. COMPENSATION OF MEMBERS OF COMMISSION.
29 Members of the commission are entitled to the per diem estab-

1 lished by law for other boards and commissions and shall be
2 paid for their necessary travel expense.

3 Sec. 42.05.091. OATH OF MEMBERS OF COMMISSION. Each
4 member of the commission shall take and subscribe to the
5 oath prescribed for principal officers of the state.

6 Sec. 42.05.092. EMPLOYMENT OF DIRECTORS. The commis-
7 sion may employ, subject to the approval of the governor,
8 an executive director, a director of motor transportation
9 and a director of air commerce and such other directors as
10 may be necessary. The executive director shall be an ex-
11 periented administrator and may be chosen from the member-
12 ship of the commission. If the executive director is chosen
13 from the membership of the commission, upon the effective
14 date of his appointment as executive director he shall re-
15 sign from the commission and a new commissioner shall be
16 appointed in his place; his appointment to be effective on
17 that date.

18 Sec. 42.05.101. EMPLOYMENT OF COMMISSION PERSONNEL.
19 The commission may employ engineers, examiners, hearing
20 officers, experts, clerks, accountants and other assistants
21 as it considers necessary.

22 Sec. 42.05.111. ADMINISTRATIVE SUPERVISION OF THE
23 COMMISSION'S STAFF. The commission's staff is under the
24 administrative supervision of the commissioner of commerce
25 and is subject to the state personnel act.

26 Sec. 42.05.121. COUNSEL FOR COMMISSION. The attorney
27 general is legal counsel for the commission. The attorney
28 general may also represent and appear on behalf of the
29 people of the State of Alaska in all acts and proceedings

1 involving any public service company.

2 Sec. 42.05.131. BRANCH OFFICES. The commission may
3 establish offices within the state as are necessary to the
4 proper discharge of its duties.

5 Sec. 42.05.141. GENERAL POWERS OF COMMISSION. The
6 commission has full power, authority, control and juris-
7 diction to supervise and regulate every public service
8 company and any other person subject to regulation by the
9 commission.

10 Sec. 42.05.151. DELEGATION OF POWER. The commission
11 may delegate any of its directors to perform in the name of
12 the commission such of its duties as it deems necessary.

13 Sec. 42.05.161. JOINT INVESTIGATIONS; HEARINGS; ORDERS.
14 The commission may make joint or concurrent investigations,
15 hold joint or concurrent hearings, and issue joint or con-
16 current orders in conjunction with any official, board, or
17 commission of any state or the United States.

18 Sec. 42.05.171. APPLICATION OF ADMINISTRATIVE PROCEDURE
19 ACT. The commission shall comply with AS 44.62.010 -
20 44.62.320 of the Administrative Procedure Act for the pro-
21 mulgation, adoption and publication of regulations, but the
22 Administrative Procedure Act shall not apply to any adminis-
23 trative adjudication by the commission.

24 Sec. 42.05.181. ADMINISTRATIVE ADJUDICATION AND COM-
25 MISSION PROCEDURES. The commission shall adopt reasonable
26 rules of practice and procedure applicable to its investi-
27 gations, prehearing conferences, hearings and other commis-
28 sion procedures.

29 Sec. 42.05.191. NOTICE AND HEARING. Prior to the

1 final disposition of any contested case, all parties shall
2 be afforded a full, fair, public hearing after reasonable
3 notice unless specifically provided otherwise in AS 45.06.
4 This does not preclude the informal disposition of contro-
5 versies by stipulation, agreed settlement, consent orders
6 or default. Every party to a contested case shall be given
7 a written statement which sets forth in ordinary and con-
8 cise language the issues involved.

9 Sec. 42.05.192. FINDINGS AND ORDERS OF THE COMMISSION.
10 Hearings or investigations may be held at any time or place
11 within or without the state. All findings or orders made
12 by a commissioner, director or hearing officer, when ap-
13 proved and confirmed by the commission and filed in its
14 office shall be deemed orders of the commission. Members
15 of the commission may vote upon, confirm or approve any
16 matter by mail, telegram or telephone.

17 Sec. 42.05.201. MANNER OF SERVICE. All applications,
18 complaints, orders, decisions, or other documents required
19 to be served upon any public service company may be served
20 by mail or by any means selected by the commission, but no
21 order shall be made by the commission adversely affecting
22 a right already held by a public service company unless
23 the company is served by registered mail, except where
24 default is entered. Service may be in the manner required
25 in civil actions. Service by registered mail shall be
26 effective if mailed to the agent for process of the public
27 service company. Service by mail shall be complete upon
28 mailing.

29 Sec. 42.05.211. AGENT FOR PROCESS. It shall be the

1 duty of every public service company within 60 days after
2 the effective date of this Act and thereafter to designate
3 in writing an agent for service of process. The designation
4 shall be filed with the commission and include the agent's
5 mailing address. Such designation may from time to time be
6 altered or amended to reflect a change in the designated
7 agent by a like writing similarly filed. Service of
8 notices, process, orders, decisions and requirements of the
9 commission may be made upon a public service company by
10 service upon the designated agent at his office or usual
11 place of residence. In default of a designation of agency,
12 service of notice or other process in any proceedings be-
13 fore said commission, or of any order, decision or require-
14 ment of the commission, may be made by posting such notice,
15 process, order, requirement or decision in the office of
16 the commission and mailing a copy to the affected utility.

17 Sec. 42.05.221. HEARINGS OFFICER OR EXAMINER. (a)

18 A hearing in a contested case may be presided over by a
19 hearing officer appointed by the commission. The commission
20 itself shall determine whether the hearing officer hears
21 the case alone or whether the commission hears the case
22 with the hearing officer.

23 (b) If the commission hears the case the hearing
24 officer shall preside at the hearing and rule on the ad-
25 mission and exclusion of evidence. The commission shall
26 exercise all other powers relating to the conduct of the
27 hearing, but may delegate any or all of these other powers
28 to the hearing officer. If the hearing officer hears a case
29 alone, he shall exercise all powers relating to the conduct

1 of the hearing.

2 (c) A hearing officer or commission member shall dis-
3 qualify himself and withdraw from a case in which he cannot
4 accord a fair and impartial hearing or consideration. A
5 party may request the disqualification of a hearing officer
6 or commission member by filing an affidavit, before the
7 taking of evidence at a hearing, stating with particularity
8 the grounds upon which it is claimed that a fair and im-
9 partial hearing cannot be accorded. If the request con-
10 cerns a commission member the issue shall be determined by
11 the other members of the commission. If the request con-
12 cerns the hearing officer, the issue shall be determined
13 by the commission when the commission hears the case with
14 the hearing officer and by the hearing officer when he
15 hears the case alone.

16 Sec. 42.05.231. RECORDING OF HEARING. The proceedings
17 at the hearing shall be reported by a phonographic reporter
18 or recorder, or other adequate means of assuring an accurate
19 record.

20 Sec. 42.05.241. EXAMINERS; POWERS. The commission
21 may designate examiners. An examiner may administer oaths,
22 issue subpoenas and subpoenas duces tecum, pursuant to sec.
23 271(b) of this chapter, examine witness, receive testimony,
24 rule on evidence, make findings of fact, determine the
25 issues and render a proposed decision in any investigations
26 or hearings in any part of the state.

27 Sec. 42.05.251. RULES OF EVIDENCE. The hearing need
28 not be conducted according to technical rules relating to
29 evidence and witnesses. Relevant evidence shall be admitted

1 if it is the sort of evidence upon which responsible persons
2 are accustomed to rely in the conduct of serious affairs,
3 regardless of the existence of a common law or statutory
4 rule which makes improper the admission of the evidence
5 over objection in a civil action. Hearsay evidence may be
6 used to supplant or explain direct evidence but is not
7 sufficient by itself to support a finding unless it would be
8 admissible in a civil action. The rules of privilege are
9 effective to the same extent that they are recognized in a
10 civil action. Irrelevant and unduly repetitious evidence
11 shall be excluded.

12 Sec. 42.05.261. OFFICIAL NOTICE. In reaching a de-
13 cision official notice may be taken, either before or after
14 submission of the case for decision, of a generally accepted
15 technical or scientific matter within the commission's
16 special field, and of a fact which is judicially noticed by
17 the courts of the state. Parties present at the hearing
18 shall be informed of the matters to be noticed, and those
19 matters shall be noted in the record, referred to in the
20 record, or appended to it. A party present at the hearing
21 shall, upon request, be given a reasonable opportunity to
22 refute the officially noticed matters by evidence or by
23 written or oral presentation of authority. The commission
24 shall determine the matter of this refutation.

25 Sec. 42.05.271. SUBPOENAS AND WITNESSES; AUTHORITY.

26 (a) Each commissioner shall have power to administer oaths,
27 certify as to all official acts and to issue subpoenas and
28 subpoenas duces tecum.

29 (b) Subpoenas. Before the hearing has commenced the

1 commission may issue subpoenas and subpoenas duces tecum at
2 the request of any party in accordance with the state rules
3 of civil procedure. After the hearing has commenced the
4 commission or an examiner sitting alone may issue subpoenas
5 and subpoenas duces tecum.

6 (c) Witnesses from more than 100 miles. The process
7 issued pursuant to subsec. (a) shall extend to all parts of
8 the state and shall be served in accordance with the rules
9 applicable to civil actions. No witness is required to
10 attend at a place out of the election district in which he
11 resides unless the distance be less than 100 miles from his
12 place of residence, except that the commission, upon affi-
13 davit of any party showing that the testimony of such witness
14 is material and necessary, may endorse on the subpoena an
15 order requiring the attendance of the witness.

16 (d) Limitation of witnesses. The commission may limit
17 the number of witnesses testifying on any subject being
18 heard before it.

19 (e) Witness fees and mileage. Each witness who
20 appears under subpoena shall receive for his attendance fee
21 and mileage allowance such sums as are allowed for witnesses
22 appearing before the superior courts of the State of Alaska
23 in civil actions. No witness shall be entitled to fees or
24 mileage from the state when subpoenaed at the instance of
25 anyone other than the commission.

26 Sec. 42.05.281. DEPOSITIONS. (a) On verified petition
27 of a party to a proceeding the commission may order that the
28 testimony of a material witness residing inside or outside
29 the state be taken by deposition in the manner prescribed by

1 law for depositions in civil actions. The petition shall
2 set out (1) the nature of the pending proceedings; (2) the
3 name and address of the witness whose testimony is desired;
4 (3) a showing of the materiality of his testimony; (4) a
5 showing that the witness will be unable or cannot be com-
6 pelled to attend; and (5) a request for an order requiring
7 the witness to appear and testify before an officer named
8 in the petition for that purpose.

9 (b) If the witness resides outside the state and if
10 the commission desires the taking of his testimony by depo-
11 sition, the commission shall obtain an order of court to
12 that effect by filing a petition for the taking of the depo-
13 sition in the superior court. The taking of the deposition
14 shall be in accordance with provisions governing the taking
15 of depositions in the superior court in a civil action.

16 Sec. 42.05.291. CONTEMPT. (a) In a proceeding before
17 the commission, the commission shall certify the facts to
18 the superior court in the judicial district where the pro-
19 ceeding is held if a person in the proceeding

20 (1) disobeys or resists a lawful order;
21 (2) refuses to respond to a subpoena;
22 (3) refuses to take an oath or affirmation as a
23 witness;

24 (4) refuses to be examined; or
25 (5) is guilty of misconduct at a hearing or so
26 near the hearing as to obstruct the proceeding.

27 (b) Upon certification under (a) of this section, the
28 court shall issue an order directing the person to appear
29 before the court and show cause why he should not be punished

1 for contempt. The order and a copy of the certified state-
2 ment shall be served on the person.

3 (c) After service under (b) of this section, the
4 court has jurisdiction of the contempt proceeding.

5 (d) The law applicable to contempt committed by a per-
6 son in the trial of a civil action before the superior court
7 applies to contempt under this section as to

- 8 (1) the proceeding taken;
9 (2) the penalties imposed; and
10 (3) the way the person charged may purge himself
11 of the contempt.

12 Sec. 42.05.301. FORM OF DECISION; RETROACTIVE DATE.
13 The decision of the commission shall be in writing and shall
14 contain findings of fact, a determination of the issues
15 and a penalty, if any. Copies of the decision shall be
16 delivered to the parties personally or sent to them by
17 registered mail. The decision may be retroactive at the
18 discretion of the commission.

19 Sec. 42.05.311. EFFECTIVE DATE OF DECISION. (a) A
20 decision becomes effective 30 days after it is delivered or
21 mailed to the respondent unless (1) a reconsideration is
22 ordered within that time; (2) the commission itself orders
23 that the decision become effective sooner; or (3) a stay
24 of execution is granted for a particular purpose and not to
25 postpone judicial review.

26 (b) A stay of execution may be included in the de-
27 cision or, if not included in it, may be granted by the
28 commission at any time before the decision becomes effec-
29 tive. The stay of execution may be accompanied by an ex-

1 press condition that the respondent comply with specified
2 terms of probation. The terms of probation shall be just
3 and reasonable in the light of the findings and decision.

4 Sec. 42.05.321. RECONSIDERATION OR REHEARING OF
5 ORDERS OR DECISION. Within 10 days after service of an
6 order or decision upon the affected public service company,
7 any party to the proceeding may file with the commission and
8 serve on all other parties to the proceeding a motion for
9 reconsideration which shall specify the part of the order
10 or decision on which reconsideration or rehearing is re-
11 quested and shall set forth specifically the grounds on
12 which the moving party contends the order or decision to
13 be unlawful, erroneous or unreasonable. For good cause
14 shown the commission may extend the time for filing the
15 motion. If no notice of hearing setting forth a date,
16 time and place of hearing is served on the moving party by
17 the commission within 30 days after the date of filing the
18 motion, then the motion shall be deemed denied and the
19 moving party may then appeal or obtain judicial review of
20 the order or decision of the commission for which recon-
21 sideration or a rehearing is sought. No appeal or other
22 means of review shall be prosecuted by any party to any
23 court unless that party shall have made a motion for re-
24 consideration to the commission in the proceeding in which
25 such order or decision was made. No person shall in any
26 court urge or rely on any ground not so set forth in the
27 motion for reconsideration. The procedure provided in
28 this section is exclusive and jurisdictional.

29 Sec. 42.05.331. COMMISSION MAY CHANGE ORDERS. The

1 commission after notice to affected parties and hearing may
2 rescind or amend any order issued by it.

3 Sec. 42.05.341. JUDICIAL REVIEW OF ORDERS OR DECISION.

4 (a) Judicial Review. Judicial review of any final order or
5 decision may be had by filing a notice of appeal in the
6 superior court within 30 days from the date of the order
7 from which the appeal is taken or within 30 days from the
8 date the commission's order on the motion for reconsidera-
9 tion is served on the party affected by such decision, or
10 within 30 days from the day the motion filed pursuant to
11 sec. 321 of this chapter was deemed to have been denied
12 because of failure of the commission to act on the motion.

13 (b) Notice of Appeal. A notice of appeal shall be
14 filed with the commission and be in duplicate with suffi-
15 cient additional copies for all parties. The notice of
16 appeal shall contain the following:

- 17 (1) the title of the commission procedure;
18 (2) the name of the party taking the appeal;
19 (3) the order or decision or part thereof ap-
20 pealed from and the date of its entry and the date of ser-
21 vice of the commission ruling on the matter for reconsider-
22 ation, if any;
23 (4) the name of the court to which the appeal
24 is taken; and
25 (5) a concise statement of the grounds of appeal
26 with specific reference to the order or the grounds set
27 forth in the motion for reconsideration if a commission
28 decision is appealed.

29 (c) Petition for Review. No petition for review

1 shall be taken from any order or decision of the commission
2 unless the review shall be on the ground that the commission
3 lacks jurisdiction to regulate and supervise the public
4 service company involved.

5 (d) Notification of Notice of Appeal. The notifica-
6 tion of the filing of the notice of appeal shall be given
7 by the moving parties by mailing copies thereof to all
8 parties set forth in the order of decision and to the com-
9 mission. Failure to notify the commission of the notice
10 of appeal is jurisdictional and the court shall not proceed
11 with the appeal unless the commission is first notified.

12 (e) Designation of Record. Within five days after
13 filing the notice of appeal the appellant shall designate
14 the record and serve copies thereof on all parties and the
15 commission. The complete record of the proceedings, or such
16 parts thereof as are designated by the appellant, shall be
17 prepared by the commission and filed with the superior
18 court within 60 days after service of the designation of
19 record and payment of the estimated cost of preparation of
20 the complete or designated record or filing a corporate
21 security bond equal to said estimated cost. No payment is
22 necessary if the commission consents to have the review
23 heard on the original record or parts thereof and the court
24 shall so order.

25 (f) Record. The complete record includes the plead-
26 ings, all notices and orders, any proposed decision, the
27 final decision, the motion for reconsideration and the
28 ruling thereon, the transcript and recording of all testi-
29 mony and proceedings, the exhibits admitted or rejected,

1 the written evidence and all other documents in the case.
2 The original record shall include the recording of the
3 testimony and the original of the complete record.

4 (g) Applicability of Rules of Civil Procedure. The
5 analogous court rules of civil procedure governing appeals
6 in civil matters shall be followed where this section is
7 silent and when not in conflict herewith.

8 (h) Scope of Review. The matter shall be heard by
9 the superior court on the record. No new or additional
10 evidence may be introduced in the superior court except as
11 to fraud or misconduct of some person engaged in the ad-
12 ministration of the law affecting the order, but the court
13 shall otherwise hear the case upon the certified record, and
14 dispose of the case in a summary manner with its review
15 being limited to determine whether or not

16 (1) the commission acted without or in excess of
17 its statutory authority, or jurisdictional power;

18 (2) the order or decision was procured by fraud;

19 (3) the order or decision is not supported by the
20 evidence or is not otherwise in conformity with the law;

21 (4) the findings of fact in issue were supported
22 by any substantial evidence.

23 (i) Findings of Commission Conclusive. Upon judicial
24 review, the findings of the commission as to the facts, if
25 supported by substantial evidence, shall be conclusive.

26 (j) Burden of Proof. The burden of proof shall be
27 upon the public service company to establish upon judicial
28 review that the order or decision of the commission appealed
29 from is erroneous or unlawful as provided in this section.

1 Sec. 42.05.351. ORDERS, RULES, REGULATIONS AND DE-
2 CISIONS PRIMA FACIE LAWFUL. All orders, determinations,
3 rules, regulations and decisions made by the commission
4 shall be prima facie lawful until finally found otherwise
5 upon judicial review.

6 Sec. 42.05.352. CERTIFIED COPIES OF ORDERS, RULES,
7 ETC.; EVIDENTIARY EFFECT. Upon application of any person
8 the commission shall furnish certified copies of any classi-
9 fication, rate, rule, regulation or order issued by it.
10 Printed copies published by the commission or any certified
11 copy of any such classification, rate, rule, regulation or
12 order shall be admissible in evidence and shall be prima
13 facie evidence that the same constitutes the official act
14 of the commission. The commission shall make a reasonable
15 charge when demand is made for copies of any classification,
16 rate, rule, regulation or order that is not contained in the
17 printed reports or copies of papers, accounts or records of
18 public service companies filed with the commission.

19 Sec. 42.05.361. COMPLAINTS; HEARINGS. (a) The com-
20 mission shall proceed upon the complaint as provided in
21 sec. 371 of this chapter unless it determines the complaint
22 is invalid. The commission shall make an order setting
23 forth the reasons the complaint is invalid.

24 (b) All complaints or grievances may be joined in one
25 hearing and no motion for misjoinder of grievances or
26 parties shall be allowed. On review the same rule per-
27 taining to joinder shall apply. No complaint shall be dis-
28 missed because of the absence of direct damage to the
29 complainant.

1 Sec. 42.05.371. VIOLATION OF LAW, COMPLAINT AND ORDERS
2 BY COMMISSION. (a) Complaint. Whenever the commission has
3 reason to believe that any person is violating or has vio-
4 lated any of the provisions of law over which the commission
5 is granted jurisdiction, it shall issue and serve upon such
6 person a complaint stating its charges in that respect, re-
7 questing compliance and containing a notice of hearing upon
8 a day and at a place therein fixed at least 10 days after
9 the service of the complaint.

10 (b) Hearing. The person so complained of shall have
11 the right to appear at the place and time so fixed for the
12 hearing and show cause why an order should not be entered
13 by the commission requiring such person to cease and desist
14 from the violation of the law charged in the complaint.
15 The commission for just cause shown may enlarge the time
16 set for hearing if request is made therefore before the
17 expiration of the period originally prescribed in the
18 complaint.

19 (c) Orders. If, upon hearing the commission shall be
20 of the opinion that any of the provisions of law have been
21 or are being violated, it shall make its findings and
22 determination thereto and shall issue and cause to be
23 served on the offending person an order to comply with the
24 law, including the payment of money, or to cease and desist
25 from such violations. Until the order is appealed to the
26 superior court the commission may, at any time, upon such
27 notice, and in such manner as or shall deem proper, modify
28 or set aside, in whole or in part, any order made or issued
29 by it under this section.

1 (d) Enforcement. If a person fails or neglects to
2 obey an order of the commission, the commission may apply
3 to the superior court in the judicial district where the
4 violation complained of was or is being committed or where
5 such person resides or carries on business, for an injunc-
6 tion and shall file the original record of the hearing and
7 its order to cease and desist with its complaint.

8 (e) Commission Findings. The findings of the com-
9 mission contained in the order as to the facts, if sup-
10 ported by substantial evidence, shall be conclusive.

11 (f) Court Proceedings. Such proceedings to enforce-
12 ment or review in the superior court shall be given pre-
13 cedence over cases pending therein, and shall be in every
14 way expedited.

15 (g) Cumulative Remedy. The remedy provided in this
16 section is not an exclusive remedy and the commission may
17 proceed in accordance with or under any other provision in
18 this chapter without any election or exhaustion of the
19 remedy provided in this section.

20 Sec. 42.05.381. REPARATIONS AND OVERCHARGES. When
21 complaint has been made to the commission by any person
22 damaged thereby that any rate, toll, rental or charge for
23 service performed by a public service company is unreason-
24 able, unlawful or in excess of the lawful rate, the commission
25 may proceed in accordance with sec. 371 of this chapter and
26 order the public service company to cease and desist from
27 the collection of any further excessive amounts and to pay
28 any excessive amount or overcharge to such person with in-
29 terest at the legal rate from the date of the collection of

1 the excess amount.

2 Sec. 42.05.391. EXPENSES OF INVESTIGATION AND HEARING.
3 Within 15 days after any hearing held by it, the commission
4 may ascertain the costs thereof and by order reasonably
5 apportion the costs among the parties, including the com-
6 mission. In assessing costs the commission may consider
7 ability to pay, evidence of good faith and other relevant
8 or mitigating circumstances. The commission shall allow a
9 reasonable time for payment of the costs except that any
10 order of the commission that increases the rate or charges
11 of a public service company shall not take effect until
12 the costs are paid, if assessed against the utility. All
13 payments shall be made to the commission and credited to
14 the general fund.

15 Sec. 42.05.401. SUMMARY PROCEEDINGS. (a) Whenever
16 the commission has reason to believe that any public service
17 company is violating or has violated (1) any provision of
18 law over which the commission is granted jurisdiction, ex-
19 cept provisions as to the reasonableness of rates or
20 charges, or (2) a rule, regulation, requirement, or order
21 under this chapter, except an order for the payment of
22 money, or (3) a term or condition of a permit, a limita-
23 tion contained in any permit, certificate or other right
24 or license granted by the commission, or, in case of an
25 order for the payment of money, a party injured by the
26 failure to comply, may apply to the superior court for the
27 enforcement of the provision of this chapter or of the rule,
28 regulation, requirement, order, term or condition. The
29 court may enforce obedience by process restraining further

1 violation and enjoining obedience.

2 (b) The commission shall keep a written report of
3 each hearing conducted upon complaint, or upon its own
4 initiative without complaint, stating its conclusions, de-
5 cision, and order.

6 Sec. 42.05.411. INSPECTION OF BOOKS, PAPERS AND DOCU-
7 MENTS. The commission shall have the right at any time to
8 inspect the accounts, books, papers and documents of any
9 public service company or its affiliates. The commission
10 may examine under oath any officer, agent or employee of a
11 public service company with reference to its affairs.

12 Sec. 42.05.421. PRODUCTION OF OUT-OF-STATE BOOKS AND
13 RECORDS. The commission may by order, with or without
14 hearing, require the production within this state at such
15 time and place as it may designate the original or at the
16 option of the company verified copies of any books, accounts,
17 papers or records kept by any public service company in any
18 office without the state.

19 Sec. 42.05.431. FORMS OF RECORDS TO BE PRESCRIBED.
20 The commission may prescribe the form of all accounts, re-
21 cords and memoranda to be kept by public service companies,
22 including but not limited to, accounts, records, and memor-
23 anda of the movement of traffic, sales of its product, the
24 receipts and expenditures of money.

25 Sec. 42.05.441. INTERVENTION BY COMMISSION WHERE ORDER
26 OR RULE IS INVOLVED. In any court action involving any rule
27 or order of the commission where the commission has not been
28 made a party, the commission may intervene. At such times
29 as the fact that the action involves a rule or order of the
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1 commission appears, the court shall direct the clerk to
2 notify the commission of the pendency of the action and
3 shall permit the commission to intervene.

4 Failure to comply with the provisions of this section
5 voids any judgment that modifies or nullifies any rules or
6 order of the commission.

7 Sec. 42.05.451. DEFINITIONS. As used in this chapter

8 (1) "Commission" means the Public Service Com-
9 mission;

10 (2) "Commissioner" means one of the members of
11 the commission;

12 (3) "Public Service Company" means any public
13 utility as defined in this chapter or any other business,
14 public, private or cooperative, which is subject to regula-
15 tion by the commission;

16 (4) "Service" is used in this chapter in its
17 broadest and most conclusive sense;

18 (5) "Municipality" means any town, village or
19 city wherein property of a public or any part thereof is
20 located.

21 * Sec. 2. The following laws are repealed:

22 AS 42.05.010 - 42.05.180.

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